***Notice** is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 02N .0406; 02O .0101, .0102, repeal the rules cited as 15A NCAC 02O .0103, .0311-.0316, readopt with substantive changes the rules cited as 15A NCAC 02N .0203, .0301, .0303, .0304, .0504, .0901-.0907; 02O .0203, .0204, .0302, .0304, .0308, .0402, .0503, .0504, readopt without substantive changes the rules cited as 15A NCAC 02N .0201, .0202, .0302, .0401-.0405, .0501-.0503, .0505, .0506, .0601-.0604, .0701-.0708, .0801-.0805, and repeal through readoption the rules cited as 15A NCAC 02O .0201, .0202, .0301, .0303, .0305- .0307, .0401, .0501, and .0502.*

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: http://reports.oah.state.nc.us/ncac.asp.

Link to agency website pursuant to G.S. 150B-19.1(c): *https://deq.nc.gov/permits-regulations/rules-regulations/proposed-main*

Proposed Effective Date: *May 1, 2020*

Public Hearing:
Date: *January 14, 2020*
Time: *6:00 p.m.*
Location: *Green Square Building, Room 1210, 217 West Jones Street, Raleigh, NC 27603*

Reason for Proposed Action: *The rule changes to 15A NCAC 02N are necessary to implement legislative requirements in SL 2018-114, incorporate input from stakeholders, and make technical corrections such as: formatting of rule text; updating websites; adding clarifying language; deleting sampling methods, industry standards and codes of practice, and other standard procedures that were no longer relevant and replacing them with those that are current; deleting unnecessary language and obsolete rules; and correcting grammar, cross-references, inconsistencies, authorities, etc., and as part of the readoption of the 15A NCAC 02N rules as required by G.S 150B-21.3A (Periodic Review of Existing Rules).*
The rule changes to 15A NCAC 020 are necessary to make technical corrections such as: formatting of rule text; updating websites; adding clarifying language; deleting unnecessary language and obsolete rules; and correcting grammar, cross-references, inconsistencies, authorities, etc. and as part of the readoption of the 15A NCAC 02O rules as required by G.S. 150B-21.3A (Periodic Review of Existing Rules).

Comments may be submitted to: *Andria Merritt, NCDEQ/DWM/UST Section, 1646 Mail Service Center, Raleigh, NC 27699-1646; phone (919) 707-8157; fax (919) 715-1117; email andria.merritt@ncdenr.gov*

Comment period ends: *February 14, 2020*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☒ **State funds affected**
- ☒ **Local funds affected**
- ☐ **Substantial economic impact (>= $1,000,000)**
- ☒ **Approved by OSBM**
- ☐ **No fiscal note required**

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02N - UNDERGROUND STORAGE TANKS
SECTION .0200 - PROGRAM SCOPE AND INTERIM PROHIBITION

15A NCAC 02N .0201 APPLICABILITY (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0202 INSTALLATION REQUIREMENTS FOR PARTIALLY EXCLUDED UST SYSTEMS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0203 DEFINITIONS

(a) The regulations governing "Definitions" set forth in 40 CFR 280.12 (Subpart A) are hereby incorporated by ~~reference,~~ reference excluding any subsequent amendments and editions, except that:

(1) ~~40 CFR 280.12~~ "UST system" shall be changed to read "'UST system' or 'Tank system' means an underground storage tank, connected underground piping, underground ancillary equipment, dispenser, and containment system, if any";
(2) ~~40 CFR 280.12~~ "Class A operator" shall not be incorporated by reference;
(3) ~~40 CFR 280.12~~ "Class B operator" shall not be incorporated by reference;
(4) ~~40 CFR 280.12~~ "Class C operator" shall not be incorporated by reference;
(5) ~~40 CFR 280.12~~ "Replaced" shall not be incorporated by reference; and

(6) ~~40 CFR 280.12~~ "Secondary containment or secondarily contained" shall not be incorporated by reference.

~~(b) This Rule shall apply throughout this Subchapter except that:~~

~~(1) "Implementing agency" shall mean the "Division of Waste Management."~~

~~(2) "Division" shall mean the "Division of Waste Management."~~

~~(3) "Director" and "Director of the Implementing Agency" shall mean the "Director of the Division of Waste Management."~~

~~(c)~~(b) The following definitions shall apply throughout this Subchapter:

(1) "De minimis concentration" means the amount of a regulated substance that does not exceed one percent ~~(1%)~~ of the capacity of a tank, excluding piping and vent lines.

(2) "Director" and "Director of the Implementing Agency" shall mean the "Director of the Division of Waste Management."

(3) "Division" shall mean the "Division of Waste Management."

~~(2)~~(4) "Expeditiously emptied after use" means the removal of a regulated substance from an emergency spill or overflow containment UST system within 48 hours after use of the UST system has ceased.

(5) "Implementing agency" shall mean the "Division of Waste Management."

~~(3)~~(6) "Previously closed" means:

(A) An UST system from which all regulated substances had been removed, the tank had been filled with a solid inert material, and tank openings had been sealed or capped prior to December 22, 1988; or

(B) An UST system removed from the ground prior to December 22, 1988.

~~(4)~~(7) "Temporarily closed" means:

(A) An UST system from which the product has been removed such that not more than one inch of product and residue are present in any portion of the tank; or

(B) Any UST system in use as of December 22, 1988 that complies with the provisions of ~~15A NCAC 02N .0801.~~ Rule .0801 of this Subchapter.

~~(5)~~(8) "Secondary containment" means a method or combination of methods of release detection for UST systems that includes:

(A) For tank installations or replacements completed prior to November 1, 2007, double-walled construction and external ~~liners (including vaults);~~ liners, including vaults;

(B) For underground piping installations or replacements completed prior to November 1, 2007, trench liners and double-walled construction;

(C) For tank installations or replacements completed on or after November 1, 2007, double-walled construction and interstitial release detection monitoring that meet the requirements of Section .0900 of this Subchapter; and

(D) For all other UST system component installations or replacements completed on or after November 1, 2007, double-walled construction or containment within a liquid-tight sump and interstitial release detection monitoring that meet the requirements of Section .0900 of this Subchapter. Upon written request, the Division shall approve other methods of secondary containment for connected piping that it determines are capable of meeting the requirements of Section .0900 of this Subchapter.

~~(6)~~(9) "Interstitial space" means the opening formed between the inner and outer wall of an UST system with double-walled construction or the opening formed between the inner wall of a containment sump and the UST system component that it contains.

~~(7)~~(10) "Replace" means to remove an UST system or UST system component and to install another UST system or UST system component in its place.

~~(8)~~(11) "UST system component or tank system component" means any part of an UST system.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h). ~~150B-21.6.~~

SECTION .0300 - UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION

15A NCAC 02N .0301 PERFORMANCE STANDARDS FOR UST SYSTEM INSTALLATIONS OR REPLACEMENTS COMPLETED AFTER DECEMBER 22, 1988 AND BEFORE NOVEMBER 1, 2007

(a) The regulations governing "Performance standards for new UST systems" set forth in 40 CFR 280.20 (Subpart B) are hereby incorporated by ~~reference,~~ reference excluding any subsequent amendments and editions, except that:

(1) 40 CFR 280.20(a)(4) shall not be incorporated by reference;

(2) 40 CFR 280.20(b)(3) shall not be incorporated by reference; ~~and~~

(3) UST system or UST system component installations or replacements completed on or after November 1, 2007, shall also meet the requirements of Section .0900 of this ~~Subchapter.~~ Subchapter; and

(4) Note to Paragraph (d) of 40 CFR 280.20 is amended to include Petroleum Equipment Institute Publication RP1000, "Recommended Practices for the Installation of Marina Fueling Systems."

(b) No UST system shall be installed within 100 feet of a well serving a public water system, as defined in G.S. 130A-313(10), or within 50 feet of any other well supplying water for human consumption.

(c) An UST system existing on January 1, 1991, and located within the area described in Paragraph (b) of this Rule may be replaced with a new tank meeting the performance standards of 40 CFR 280.20 and the secondary containment provisions of 40 CFR 280.42(a) through (d). The replacement UST system shall not be located nearer to the water supply source than the UST system being replaced.

(d) Except as prohibited in Paragraph (b) of this Rule, an UST system shall meet the requirements for secondary containment described at 40 CFR 280.42(a) through (d):

(1) Within 500 feet of a well serving a public water supply or within 100 feet of any other well supplying water for human consumption; or

(2) Within 500 feet of any surface water classified as High Quality ~~Water (HQW),~~ Waters (HQW); Outstanding Resource ~~water (ORW),~~ Waters (ORW); ~~WS-I, WS-II or SA.~~ Water Supply I – Natural (WS-I); Water Supply II – Undeveloped; Market Shellfishing, Salt Water (SA).

(e) An UST system or UST system component installation completed on or after November 1, 2007, to replace an UST system or UST system component located within the areas described in Paragraphs (b), (c), or (d) of this Rule shall meet the requirements of Section .0900 of this Subchapter.

~~(f) 40 CFR 280.20 Note to paragraph (d) is amended to include Petroleum Equipment Institute Publication RP1000, "Recommended Practices for the Installation of Marina Fueling Systems."~~

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h). ~~150B-21.6.~~

15A NCAC 02N .0302 UPGRADING OF EXISTING UST SYSTEMS AFTER DECEMBER 22, 1998 AND BEFORE NOVEMBER 1, 2007 (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0303 NOTIFICATION REQUIREMENTS

The regulations governing "Notification requirements" set forth in 40 CFR 280.22 (Subpart B) are hereby incorporated by ~~reference,~~ reference excluding any subsequent amendments and editions, except that:

(1) Owners and operators of an UST system shall submit to the Division, on forms provided by the Division, a notice of intent to conduct any of the following activities:

(a) notice of installation of a new UST system or UST system component shall be in accordance with Rule .0902 of this Subchapter;

(b) notice of installation of a leak detection device installed outside of the outermost wall of the tank and piping, such as vapor detection or groundwater monitoring devices, shall be given at least 30 days before the activity begins. The notice shall be provided on form "UST-8 Notification of Activities Involving Underground Storage Tank Systems," which may be accessed free of charge at http://deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/forms. Form "UST-8 Notification of Activities Involving Underground Storage Tank Systems" shall include:

(i) the same information provided in Appendix I to 40 CFR 280, except that Sections X (2) and (3), and Section XI shall not be included on the form;

(ii) operator identification and contact information;

(iii) number of tank compartments and tank compartment identity, capacity, and product stored;

(iv) identity of tanks that are manifold together with piping;

(v) stage I Vapor Recovery equipment type and installation date;

(vi) corrosion protection methods for metal flexible connectors, submersible pumps, and riser pipes;

(vii) UST system and UST system component installation date, manufacturer, model, and leak detection monitoring method;

(viii) spill containment equipment installation date, manufacturer, model, and leak detection monitoring method;

(ix) overfill prevention equipment installation date, manufacturer, and model; and

(x) leak detection equipment manufacturer and model;

(c) notice of permanent closure or change-in-service of an UST system

shall be given at least 30 days before the activity ~~begins, unless a North Carolina Professional Engineer or North Carolina Licensed Geologist retained by the owner or operator to provide professional services for the tank closure or change-in-service submits the notice. A North Carolina Professional Engineer or North Carolina Licensed Geologist may submit the notice at least five business days before the activity begins.~~ begins. The notice shall be provided on form "UST-3 Notice of Intent: UST Permanent Closure or Change-in-Service," which may be accessed free of charge at http://deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/forms. Form "UST-3 Notice of Intent: UST Permanent Closure or Change-in-Service" shall include:

(i) owner identification and contact information;
(ii) site location information;
(iii) site contact information;
(iv) contractor and consultant identification and contact information;
(v) identity of UST systems to be permanently closed or that will undergo a change-in-service;
(vi) for permanent closure, the proposed method of UST System closure – removal or fill in-place;
(vii) for a change-in-service, the new contents to be stored;
(viii) proposed UST system closure or change-in-service date; and
(ix) signature of UST system owner;

(d) notice of a change of ownership of a UST system pursuant to 40 CFR 280.22(b) shall be provided on form "UST-15 Change of Ownership of UST System(s)," which may be accessed free of charge at http://deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/forms. Form "UST-15 Change of Ownership of UST System(s)" shall include:

(i) the same information provided in Appendix II to 40 CFR 280;
(ii) site location information;
(iii) notarized signature of the new owner of an UST system;
(iv) name and notarized signature of the previous owner of an UST system; and
(v) appended information shall include documentation of an UST system ownership transfer such as a property deed or bill of ~~sale and for a~~ sale. A person signing the form on behalf of ~~another,~~ another shall provide documentation they can legally sign in such capacity, such as an officer of a corporation, administrator of an estate, representative of a public agency, or as having power of ~~attorney, documentation showing that the person can legally sign in such capacity.~~ attorney.

(2) Owners and operators of UST systems that were in the ground on or after May 8, 1986, were required to notify the Division in accordance with the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616, on a form published by the Environmental Protection Agency on November 8, 1985 (50-FR 46602) 46602), unless notice was given pursuant to Section 103(c) of CERCLA. Owners or operators who have not complied with the notification requirements shall complete the appropriate form "UST-8 Notification of Activities Involving Underground Storage Tank Systems" and submit the form to the Division.

(3) Beginning October 24, 1988, any person who sells a tank intended to be used as an UST shall notify the purchaser of such tank of the owner's notification obligations under Item (1) of this Rule.

(4) Any reference in 40 CFR Part 280 to the notification form in Appendix I shall refer to the North Carolina notification form "UST-8 Notification of Activities Involving Underground Storage Tank ~~Systems".~~ Systems."

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h). ~~150B-21.6.~~

15A NCAC 02N .0304 IMPLEMENTATION SCHEDULE FOR PERFORMANCE STANDARDS FOR NEW UST SYSTEMS AND UPGRADING

REQUIREMENTS FOR EXISTING UST SYSTEMS LOCATED IN AREAS DEFINED IN RULE .0301(D)

(a) The following implementation schedule shall apply only to owners and operators of UST systems located within areas described in Rule .0301(d) of this Section. This implementation schedule shall govern tank owners and operators in complying with the secondary containment requirements set forth in Rule .0301(d) of this Section for new UST systems and the secondary containment requirements set forth in Rule .0302(a) of this Section for existing UST systems.

(1) All new UST systems and replacements to an UST system shall be provided with secondary containment as of April 1, 2001.

(2) All steel or metal connected piping and ancillary equipment of an UST, regardless of date of installation, shall be provided with secondary containment as of January 1, 2005.

(3) All fiberglass or non-metal connected piping and ancillary equipment of an UST, regardless of date of installation, shall be provided with secondary containment as of January 1, 2008.

(4) All UST systems installed on or before January 1, 1991 shall be provided with secondary containment as of January 1, 2008.

(5) All USTs installed after January 1, 1991, and prior to April 1, 2001, shall be provided with secondary containment as of January 1, 2020. Owners of USTs located within 100 to 500 feet of a public water supply well, if the well serves only a single facility and is not a community water system, may seek a variance in accordance with Paragraphs (d) through (i) of this Rule.

(b) All owners and operators of UST systems shall implement the following enhanced leak detection monitoring as of April 1, 2001. The enhanced leak detection monitoring shall consist of the following:

(1) An automatic tank gauging system for each UST;

(2) An electronic line leak detector for each pressurized piping system;

(3) One 0.1 gallon per hour (gph) test per month or one 0.2 gph test per week on each UST system;

(4) A line tightness test capable of detecting a leak rate of 0.1 gph, once per year for each suction piping system. No release detection shall be required for suction piping that is designed and constructed in accordance with 40 CFR 280.41(b)(1)(ii)(A) through (E);

(5) If the UST system is located within 500 feet of a public water supply well or within 100 feet of any other well supplying water for human consumption, owners or operators shall sample the water supply well ~~at least~~ once per year. The sample collected from the well shall be characterized in accordance with:

(A) Standard Method 6200B, Volatile Organic Compounds Purge and Trap Capillary-Column Gas Chromatographic/Mass Spectrometric Method, which is incorporated by reference including subsequent amendments and editions, and may be obtained at http://www.standardmethods.org/ at a cost of ~~sixty-nine dollars ($69.00);~~ seventy-five dollars ($75.00);

(B) EPA Method ~~625,~~ 625.1, Base/Neutrals and Acids, which is incorporated by reference including subsequent amendments and editions, and may be accessed free of charge at http://water.epa.gov/scitech/methods/cwa/organics/upload/2007_07_10_methods_method_ organics_625.pdf; and

(C) If a waste oil UST system is present that does not meet the requirements for secondary containment in accordance with 40 CFR 280.42(b)(1) through (4), the sample shall also be analyzed for lead and chromium using Method ~~6010C,~~ 6010D, Inductively Coupled ~~Plasma-Atomic~~ Plasma-Optical Emission Spectrometry, which is incorporated by reference including subsequent amendments and editions, and may be accessed free of charge at ~~http://www.epa.gov/epawaste/hazard/testmethods/sw846/pdfs/6010c.pdf~~ https://www.epa.gov/sites/production/files/2015-12/documents/6010d.pdf or Method ~~6020A,~~ 6020B, Inductively Coupled Plasma-Mass Spectrometry, which is incorporated by reference including subsequent amendments and editions, and may be accessed free of charge at ~~http://www.epa.gov/epawaste/hazard/testmethods/sw846/pdfs/6020a.pdf;~~ https://www.epa.gov/sites/production/files/2015-12/documents/6020b.pdf; and

(6) The first sample collected in accordance with Subparagraph (b)(5) of this Rule shall be collected and the results received by the Division by October 1, 2000, and yearly thereafter.

(c) An UST system or UST system component installation completed on or after November 1, 2007, to upgrade or replace an UST system or UST system component as required in Paragraph (a) of this Rule shall meet the performance standards of Section .0900 of this Subchapter.

(d) The Environmental Management Commission may grant a variance from the secondary containment requirements in Subparagraph (a)(5) of this Rule for USTs located within 100 to 500 feet of a public water supply well if the well serves only a single facility and is not a community water system. Any request for a variance shall be in writing by the owner of the UST for

which the variance is sought. The request for variance shall be submitted to the Director, Division of Waste Management, 1646 Mail Service Center, Raleigh, NC 27699-1646. The Environmental Management Commission shall grant the variance if the Environmental Management Commission finds facts to support the following conclusions:

(1) The variance will not endanger human health and welfare or groundwater; and

(2) UST systems are operated and maintained in compliance with 40 CFR Part 280, Article 21A of G.S. 143B, and the rules in this Subchapter.

(e) The Environmental Management Commission may require the variance applicant to submit such information as the Environmental Management Commission deems necessary to make a decision to grant or deny the variance. Information that may be requested includes the following:

(1) Water supply well location, depth, construction specifications, and sampling results;

(2) Groundwater depth and flow direction; and

(3) Leak detection monitoring and testing results.

(f) The Environmental Management Commission may impose such conditions on a variance as the Environmental Management Commission deems necessary to protect human health and welfare and groundwater. Conditions for a variance may include the following:

(1) Increased frequency of leak detection and leak prevention monitoring and testing;

(2) Periodic water supply well sampling; and

(3) Increased reporting and recordkeeping.

(g) The findings of fact supporting any variance under this Rule shall be in writing and made part of the variance.

(h) The Environmental Management Commission may rescind a variance that was previously granted if the Environmental Management Commission discovers through inspection or reporting that the conditions of the variance are not met or that the facts no longer support the conclusions in Subparagraphs (d)(1) and (2) of this Rule.

(i) An owner of an UST system who is aggrieved by a decision of the Environmental Management Commission to deny or rescind a variance or to conditionally grant a variance may commence a contested case by filing a petition pursuant to G.S. 150B-23 within 60 days after receipt of the decision.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

SECTION .0400 - GENERAL OPERATING REQUIREMENTS

15A NCAC 02N .0401 SPILL AND OVERFILL CONTROL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0402 OPERATION AND MAINTENANCE OF CORROSION PROTECTION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0403 COMPATIBILITY (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0404 REPAIRS ALLOWED (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0405 REPORTING AND RECORDKEEPING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0406 PERIODIC TESTING OF SPILL PREVENTION EQUIPMENT AND CONTAINMENT SUMPS USED FOR INTERSTITIAL MONITORING OF PIPING AND PERIODIC INSPECTION OF OVERFILL PREVENTION EQUIPMENT

The regulations governing "Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment" set forth in 40 CFR 280.35 (Subpart C) are hereby incorporated by ~~reference,~~ reference excluding any subsequent amendments and editions, except ~~that~~ that:

(1) UST system or UST system component installations or replacements completed on or after November 1, 2007, shall meet the requirements of Section .0900 of this Subchapter.

(2) 40 CFR 280.35(a)(1)(ii)(C) shall be rewritten as follows: (C) Requirements determined by the US Environmental Protection Agency or the Division to be no less protective of human health and the environment than the requirements listed in Paragraphs (a)(1)(ii)(A) and (B) of this section.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h). ~~150B-21.6.~~

SECTION .0500 - RELEASE DETECTION

15A NCAC 02N .0501 GENERAL REQUIREMENTS FOR ALL UST SYSTEMS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0502 REQUIREMENTS FOR PETROLEUM UST SYSTEMS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0503 REQUIREMENTS FOR HAZARDOUS SUBSTANCE UST SYSTEMS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0504 METHODS OF RELEASE DETECTION FOR TANKS

(a) The regulations governing "Methods of release detection for tanks" set forth in 40 CFR 280.43 (Subpart D) are hereby incorporated by ~~reference,~~ reference excluding any subsequent amendments and editions, except that 40 CFR 280.43(f)(3), (f)(4), and (f)(5) shall not be adopted by reference.

(b) Wells used for monitoring or testing for free product in the groundwater shall be:

(1) ~~Located as follows:~~ located:
  ~~(A)~~ ~~for new installations, within and at the end of the excavation having the lowest elevation and along piping at intervals not exceeding 50 feet; or~~
  ~~(B)~~ ~~for existing installations,~~ in the excavation zone or as near to it as technically feasible and installed in a borehole at least four inches larger than the diameter of the casing;

(2) ~~A~~ a minimum of two inches in ~~diameter.~~ diameter;

(3) ~~The number of wells installed shall be sufficient to detect releases from the UST system;~~ installed such that a release from any portion of the UST will be detected;

~~(3)~~(4) ~~Equipped~~ equipped with a screen that extends from two feet below land surface to a depth of 20 feet below land surface or two feet below the seasonal low water level, whichever is shallower. The screen shall be designed and installed to prevent the migration of natural soils or filter pack into the well while allowing the entry of regulated substances into the well under both high and low groundwater level conditions;

~~(4)~~(5) ~~Surrounded~~ surrounded with clean sand or gravel to the top of the screen, plugged and grouted the remaining distance to finished grade with cement grout;

~~(5)~~(6) ~~Constructed~~ constructed of a permanent casing and screen material that is inert to the stored substance and is corrosion resistant;

~~(6)~~(7) ~~Developed~~ developed upon completion of installation until the water is clear and sediment free;

~~(7)~~(8) ~~Protected~~ protected with a water-tight cover and lockable cap;

~~(8)~~(9) ~~Labeled~~ labeled as a liquid monitor well; and

~~(9)~~(10) ~~Equipped~~ equipped with a liquid leak detection device ~~continuously~~ operating on an uninterrupted basis; or
  (A) For tanks storing petroleum products, tested at least once every 14 days with a device or hydrocarbon-sensitive paste capable of detecting the liquid stored; or
  (B) For tanks storing hazardous substances, sampled and tested at least once every 14 days for the presence of the stored substance.

(c) Wells used for monitoring or testing for free product in the groundwater at new installations and constructed in accordance with Paragraph (b) of this Rule shall be deemed to be permitted in accordance with the requirements of 15A NCAC 02C .0105.

(d) Any person completing or abandoning any well used for testing of vapors or monitoring for free product in the groundwater shall submit the ~~record~~ report required by 15A NCAC 02C .0114(b).

(e) Wells used for monitoring for the presence of vapors in the soil gas of the excavation zone shall be equipped with a ~~continuously operating~~ vapor detection device operating on an uninterrupted basis or tested at least once every 14 days for vapors of the substance stored.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h). ~~150B-21.6.~~

15A NCAC 02N .0505 METHODS OF RELEASE DETECTION FOR PIPING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0506 RELEASE DETECTION RECORDKEEPING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0600 - RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION

15A NCAC 02N .0601 REPORTING OF SUSPECTED RELEASES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0602 INVESTIGATION DUE TO OFF-SITE IMPACTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0603 RELEASE INVESTIGATION AND CONFIRMATION STEPS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0604 REPORTING AND CLEANUP OF SPILLS AND OVERFILLS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0700 - RELEASE RESPONSE AND CORRECTIVE ACTION FOR UST SYSTEMS

CONTAINING PETROLEUM OR HAZARDOUS SUBSTANCES

15A NCAC 02N .0701 GENERAL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0702 INITIAL RESPONSE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0703 INITIAL ABATEMENT MEASURES AND SITE CHECK (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0704 INITIAL SITE CHARACTERIZATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0705 FREE PRODUCT REMOVAL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0706 INVESTIGATIONS FOR SOIL AND GROUNDWATER CLEANUP (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0707 CORRECTIVE ACTION PLAN (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0708 PUBLIC PARTICIPATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0800 - OUT-OF-SERVICE UST SYSTEMS AND CLOSURE

15A NCAC 02N .0801 TEMPORARY CLOSURE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0802 PERMANENT CLOSURE AND CHANGES-IN-SERVICE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0803 ASSESSING THE SITE AT CLOSURE OR CHANGE-IN-SERVICE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0804 APPLICABILITY TO PREVIOUSLY CLOSED UST SYSTEMS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 02N .0805 CLOSURE RECORDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0900 - PERFORMANCE STANDARDS FOR UST SYSTEM OR UST SYSTEM COMPONENT INSTALLATION OR REPLACEMENT COMPLETED ON OR AFTER NOVEMBER 1, 2007

15A NCAC 02N .0901 GENERAL REQUIREMENTS

(a) This Section applies to a UST system or UST system component installation or replacement completed on or after November 1, 2007.

(b) A UST system or UST system component shall not be installed or replaced within an area defined ~~at 15A NCAC 02N .0301(b).~~ in Rule .0301(b) of this Subchapter.

(c) A tank shall meet the requirements for secondary containment including interstitial release detection monitoring in accordance with this Rule.

(d) All UST system components other than tanks including connected piping, underground ancillary equipment, dispensers, line leak detectors, submersible pumps, spill buckets, siphon bars, and remote fill pipes shall meet the requirements for secondary containment including interstitial release detection monitoring in accordance with this Rule. Spill buckets replaced on tanks installed prior to November 1, 2007 may comply with the interstitial release detection monitoring requirements described in Paragraph (k) of this Rule. Gravity-fed vertical fill pipes, vapor recovery, vent lines, and containment sumps are excluded from the secondary containment requirements in this Rule.

(e) A UST system design is required for installation or replacement of a UST system, UST, or connected piping. If required by G.S. 89C, UST system designs must be prepared by a Professional Engineer licensed by the North Carolina Board of Examiners for Engineers and Surveyors.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined via letter dated December 20, 1993, that preparation of a UST system design constitutes practicing engineering under G.S. 89C.]

(f) If required by the equipment manufacturer, persons installing, replacing or repairing UST systems or UST system components must be trained and certified by the equipment manufacturer or the equipment manufacturer's authorized representative to install, replace or repair such equipment.

(g) UST systems or UST system components shall be installed, tested, operated, and maintained in accordance with the manufacturer's specifications and the codes of practice, and industry standards described ~~at 15A NCAC 02N .0907.~~ in Rule .0907 of this Section.

(h) UST systems or UST system components shall not be installed or replaced in areas where they will be in contact with contaminated soil or free product.

(i) Secondary containment systems shall be designed, constructed, installed and maintained to:

(1) ~~Detect~~ detect the failure of the inner wall and outer wall for UST system components with double wall construction;

(2) ~~Contain~~ contain regulated substances released from a UST system until they are detected and removed;

(3) ~~Prevent~~ prevent a release of regulated substances to the environment outside of the containment system;

(4) ~~Direct~~ direct releases to a monitoring point or points;

(5) ~~Provide~~ provide a release detection monitoring device or monitoring method for the interstitial space;

(6) ~~Continuously~~ on an uninterrupted basis, monitor the inner and outer walls of double-walled tanks for breaches of integrity using pressure, vacuum or hydrostatic monitoring methods or monitor the interstitial space of double-walled tanks for releases using an electronic liquid detecting sensor method along with periodic testing as specified in Rule ~~.0903(f);~~ .0903(f) of this Section;

(7) ~~Continuously~~ on an uninterrupted basis, monitor the inner and outer walls of double-walled non-tank components for breaches of integrity using pressure, vacuum, or hydrostatic methods, or monitor a non-tank component for releases by using an electronic liquid detecting sensor placed in a containment sump and in the interstitial space of a double-walled spill bucket along with periodic integrity testing as specified in Rules ~~.0904(h), .0905(f),~~ .0904(f), .0905(g) and ~~.0906(e);~~ .0906(e) of this Section; and

(8) ~~Provide~~ provide a printed record of release detection monitoring results and an alarm history for each month.

(j) Electronic liquid detecting sensors used to monitor the interstitial space of double-walled tanks and non-tank components shall meet the following requirements:

(1) Electronic liquid detecting sensors used for tanks and spill buckets ~~must~~ shall be located at the lowest point in the interstitial space. Electronic liquid detecting sensors used for containment sumps ~~must~~ shall be located as specified in Rule ~~.0905(d).~~ .0905(d) of this Section.

(2) A tank ~~must~~ shall have a method to verify that an electronic liquid detecting sensor is located at the lowest point of the interstitial space. Verification of the sensor location ~~must~~ shall be available for inspection.

(3) Electronic liquid detecting sensors ~~must~~ shall detect the presence of any liquid in the interstitial space and ~~must~~ shall activate an alarm when any type of liquid is detected.

(4) Any liquid detected in the interstitial space must be removed within 48 hours of discovery.

(k) Spill buckets replaced on tanks installed prior to November 1, 2007 may use mechanical liquid detecting sensors for interstitial leak detection monitoring instead of electronic liquid detecting sensors. If a mechanical liquid detecting sensor is used, then a spill bucket shall comply with all spill bucket requirements of Rule .0906 of this Section except that Subparagraphs (i)(7) and (8) of this Rule do not apply. In addition, the following specific requirements shall be met:

(1) mechanical liquid detecting sensors shall be located at the lowest point in the interstitial space;

(2) mechanical liquid detecting sensors shall detect the presence of any liquid in the interstitial space. The presence of liquid shall register on a gauge that can be viewed from within the spill bucket;

(3) spill buckets shall be monitored every 30 days. The interstitial leak detection monitoring results shall be documented for each month;

(4) any liquid detected in the interstitial space shall be removed within 48 hours of discovery; and

(5) spill buckets shall be integrity tested every three years in accordance with Rule .0906(e) of this Section.

~~(k)~~(l) New or replacement dispensers shall be provided with under dispenser containment sumps and shall meet the secondary containment requirements and performance standards of this Rule.

~~(l)~~(m) All release detection monitoring equipment shall be installed, calibrated, operated and maintained in accordance with manufacturer's instructions. All release detection monitoring equipment shall be checked annually for operability, proper operating condition and proper calibration in accordance with the ~~manufacturers~~ manufacturer's written guidelines. The results of the last annual check must be recorded, maintained at the UST site or the tank owner or operator's place of business, and made available for inspection.

~~(m)~~(n) Releases detected in an interstitial space shall be reported in accordance with Rule .0601 of this Subchapter and investigated in accordance with the ~~manufacturers~~ manufacturer's written guidelines. Any changes in the original physical characteristics or integrity of a piping system or a containment sump ~~must~~ shall also be reported in accordance with Rule .0601 of this Subchapter and investigated in accordance with the manufacturer's written guidelines.

~~(n)~~(o) UST systems and UST system components shall also meet all of the installation requirements specified in 40 CFR 280.20(c), (d) and (e). In addition, overfill prevention equipment shall be ~~checked annually~~ inspected at least once every three years for operability, proper operating condition and proper calibration in accordance ~~with the manufacturer's written guidelines.~~ with:

(1) written requirements developed by the manufacturer;

(2) a code of practice developed by a nationally recognized association or independent testing laboratory; or

(3) requirements determined by the United States Environmental Protection Agency or the Division to be no less protective of human health and the environment than the requirements listed in Subparagraph (1) or (2) of this Paragraph. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in §40 CFR 280.20(c)(1)(ii) and will activate when regulated substance reaches that level.

The results of the last ~~annual~~ triennial check ~~must~~ shall be recorded, maintained at the UST site or the tank owner or operator's place of business, and made available for inspection.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

15A NCAC 02N .0902 NOTIFICATION

(a) Owners and operators ~~must~~ shall provide notification of installation or replacement of an UST system, UST, or connected piping to the Division in accordance with ~~15A NCAC 02N .0303.~~ Rule .0303 of this Subchapter. The notice shall also include:

(1) An UST system design.

(2) Equipment to be installed including model and manufacturer and the materials of construction.

(3) Device or method to be used to allow piping to be located after it is buried underground.

(4) A site plan drawn to scale showing the proposed location of UST systems relative to buildings and other permanent structures, roadways, utilities, other UST systems, monitoring wells, and water supply wells within 500 feet used for human ~~consumption within 500 feet.~~ consumption.

(5) A schedule for UST system installation or replacement.

(b) Owners and operators ~~must~~ shall notify the Division at least 48 hours prior to the following stages of construction so that the Division may perform an inspection of the installation:

(1) ~~Pre-installation~~ pre-installation tightness testing of tanks; and

(2) ~~Final~~ final tightness testing of piping before it is backfilled.

(c) Documents showing the following information shall be submitted to the Division within 30 days after UST system, UST, or connected piping installation or replacement is completed and shall be maintained at the UST system site or the owner's or operator's place of business for the life of the UST system. These records shall be transferred to a new tank owner at the time of a transfer of tank ownership:

(1) Certification from the UST system installer containing:

(A) ~~The~~ the UST system installer's name, address and telephone number; training and any certification received from the manufacturer of the equipment that was installed or replaced or the equipment manufacturer's authorized representative including any certification number;

(B) ~~An~~ an as-built diagram drawn to scale showing: the name and address of the UST system site; the date of UST system, UST, or connected piping installation or replacement; the equipment that was installed including model and manufacturer; the information described ~~at 15A NCAC 02N .0903(b);~~ in Rule .0903(c) of this Section; the method used to anchor a tank in the ground; if the equipment has single-walled or double-walled construction; the year the piping was manufactured and any production code; and the device or method used to allow piping to be located after it is buried underground. The as-built diagram shall also show the location of the installed or replaced UST systems relative to: buildings and other permanent structures, utilities, monitoring wells and other UST systems located at the site; adjacent roadways; and water supply wells used for human consumption within 500 feet;

(C) ~~A~~ a listing of the manufacturer's written guidelines, codes of practice, and industry standards used for installation; and

(D) ~~A~~ a statement that the UST system was installed in accordance with the design and the manufacturer's specifications.

(2) ~~Manufacturer~~ manufacturer warranties;

(3) ~~Any~~ any equipment performance claims; and

(4) ~~Records~~ records of all tightness testing performed.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

15A NCAC 02N .0903 TANKS

(a) Tanks ~~must~~ shall be protected from external corrosion in accordance with 40 CFR 280.20(a)(1), (2), (3), or (5).

(b) Owners and operators of tanks installed in accordance with 40 CFR 280.20(a)(2) shall comply with all applicable requirements for corrosion protection systems contained in this Subchapter.

(c) The exterior surface of a tank shall bear a permanent marking, code stamp, or label showing the following information:

(1) ~~The~~ the engineering standard used;

(2) ~~The~~ the diameter in feet;

(3) ~~The~~ the capacity in gallons;

(4) ~~The~~ the materials of construction of the inner and outer walls of the tank, including any external or internal coatings;

(5) ~~Serial~~ serial number or other unique identification number designated by the tank manufacturer;

(6) ~~Date~~ date manufactured; and

(7) ~~Identity~~ identify of manufacturer.

(d) Tanks that will be reused shall be certified by the tank manufacturer prior to re-installation and meet all of the requirements of this Section. Tank owners and operators shall submit proof of certification to the Division along with a notice of intent ~~(Rule .0902).~~ in accordance with Rule .0902 of this Section.

(e) Tanks shall be tested before and after installation in accordance with the following requirements:

(1) Pre- Installation Test - Before installation, the primary containment and the interstitial space shall be tested in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." PEI/RP100, "Recommended

Practice for Installation of Underground Liquid Storage Systems" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Petroleum Equipment ~~Institute, P.O. Box 2380, Tulsa, Oklahoma 74101-2380~~ Institute at https://my.pei.org/productdetails?id=a1Bf4000001yPEBEA2 at a cost of one hundred and ninety-five dollars ~~($95.00).~~ ($195.00). The presence of soap bubbles or water droplets during a pressure test, any change in vacuum beyond the limits specified by the tank manufacturer during a vacuum test, or any change in liquid level in an interstitial space liquid reservoir beyond the limits specified by the tank manufacturer, shall be considered a failure of the integrity of the tank.

(2) Post-installation Test – The interstitial space shall be checked for a loss of pressure or vacuum, or a change in liquid level in an interstitial space liquid reservoir. Any loss of pressure or vacuum beyond the limits specified by the tank manufacturer, or a change in liquid level beyond the limits specified by the tank manufacturer, shall be considered a failure of the integrity of the tank.

(3) If a tank fails a pre-installation or post-installation test, tank installation shall be suspended until the tank is replaced or repaired in accordance with the manufacturer's specifications. Following any repair, the tank shall be re-tested in accordance with Subparagraph ~~(e)(1)~~(1) of this ~~Rule~~ Paragraph if it failed the pre-installation test and in accordance with Subparagraph ~~(e)(2)~~(2) of this ~~Rule~~ Paragraph if it failed the post-installation test.

(f) The interstitial spaces of tanks that are not monitored using vacuum, pressure, or hydrostatic methods shall be tested for tightness before UST system start-up, between six months and the first anniversary of start-up, and every three years thereafter. The interstitial space shall be tested using an interstitial tank tightness test method that is capable of detecting a 0.10 gallon per hour leak rate with a probability of detection (Pd) of at least 95 percent and a probability of false alarm (Pfa) of no more than ~~5~~ five percent. The test method shall be evaluated by an independent testing laboratory, consulting firm, not-for-profit research organization, or educational institution using the most recent version of the United States Environmental Protection Agency's (EPA's) "Standard Test Procedures for Evaluating Various Leak Detection Methods." EPA's "Standard Test Procedures for Evaluating Various Leak Detection Methods" is hereby incorporated by reference including subsequent amendments and additions. A copy may be obtained by visiting EPA's Office of Underground Storage Tank website: ~~http://www.epa.gov/OUST/pubs/protocol.htm~~ https://www.epa.gov/ust/standard-test-procedures-evaluating-various-leak-detection-methods and may be accessed free of charge. The independent testing laboratory, consulting firm, not-for-profit research organization, or educational institution shall certify that the test method can detect a 0.10 gallon per hour leak rate with a Pd of at least 95 percent and a Pfa of no more than ~~5~~ five percent for the specific tank model being tested. If a tank fails an interstitial tank tightness test, it shall be replaced by the owner or operator or repaired by the manufacturer or the manufacturer's authorized representative in accordance with manufacturer's specifications. Tank owners and operators shall report all failed interstitial tank tightness tests to the Division within 24 hours. Failed interstitial tank tightness tests shall be reported by fax to the Division of Waste Management, Underground Storage Tank Section, at (919) 715-1117. Following any repair, the tank interstitial space shall be re-tested for tightness. The most recent interstitial tightness test record shall be maintained at the UST site or the tank owner's or operator's place of business and shall be available for inspection.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

15A NCAC 02N .0904 PIPING

(a) Piping, with the exception of flexible connectors and piping connections, shall be pre-fabricated with double-walled construction. Any flexible connectors or piping connections that do not have double-walled construction shall be installed in containment sumps that meet the requirements of ~~15A NCAC 02N .0905.~~ Rule .0905 of this Section.

(b) ~~Piping~~ Piping, with the exception of metal flex connectors and piping connections, shall be constructed of ~~non-corroding materials.~~ materials that prevent corrosion and meet the requirements of Subparagraph (1) or (2) of this Paragraph. Metal flexible connectors and piping connections shall be installed in containment sumps that meet the requirements of ~~15A NCAC 02N .0905.~~ Rule .0905 of this Section.

~~(c) Piping shall~~

(1) Primary and secondary piping are constructed of non-corroding materials and comply with the ~~UL~~ Underwriters Laboratories Standard (UL) 971 standard "Nonmetallic Underground Piping for Flammable ~~Liquids;"~~ Liquids" that is in effect at the time the piping is installed. UL 971 ~~standard "Nonmetallic~~ "Standard for Nonmetallic Underground Piping for Flammable Liquids" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters ~~Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096~~ Laboratories at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=7936 at a cost of four hundred and two dollars ($402.00).

(2) Primary piping is constructed of stainless steel and secondary piping is constructed of non-corroding materials and complies with UL 971A "Outline of Investigation for Metallic Underground Fuel Pipe." UL 971A "Outline of Investigation for Metallic Underground Fuel Pipe" is hereby incorporated by reference including subsequent amendments and editions.

A copy may be obtained from Underwriters Laboratories at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=15373 at a cost of two hundred and twenty-five dollars ($225.00).

~~(d)~~(c) Piping that is buried underground shall be constructed with a device or method that allows it to be located once it is installed.

~~(e)~~(d) Piping that conveys regulated substances under pressure shall also be equipped with an automatic line leak detector that meets the requirements of 40 CFR 280.44(a).

~~(f)~~(e) At the time of installation, the primary containment and interstitial space of the piping shall be initially tested, monitored during construction, and finally tested in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." The presence of soap bubbles or water droplets or any loss of pressure beyond the limits specified by the piping manufacturer during testing shall be considered a failure of the integrity of the piping. If the piping fails a tightness test, it shall be replaced by the owner or operator or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's written specifications. Following any repair, the piping shall be re-tested for tightness in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems."

~~(g)~~(f) Piping that is not monitored continuously for releases using vacuum, pressure, or hydrostatic methods, shall be tested for tightness every three years following installation. The primary containment ~~and~~ shall be tested using a piping tightness test method that is capable of detecting a 0.10 gallon per hour leak rate with a probability of detection (Pd) of at least 95 percent and a probability of false alarm (Pfa) of no more than five percent. The test method shall be evaluated by an independent testing laboratory, consulting firm, not-for-profit research organization, or educational institution using the most recent version of the United States Environmental Protection Agency's (EPA's) "Standard Test Procedures for Evaluating Various Leak Detection Methods." EPA's "Standard Test Procedures for Evaluating Various Leak Detection Methods" is hereby incorporated by reference including subsequent amendments and additions. The independent testing laboratory, consulting firm, not-for-profit research organization, or educational institution shall certify that the test method can detect a 0.10 gallon per hour leak rate with a Pd of at least 95 percent and a Pfa of no more than five percent. The interstitial space of the piping shall be tested in accordance with the ~~manufacturers~~ manufacturer's written guidelines ~~and PEI/RP100 "Recommended Practice for Installation of Underground Liquid Storage Systems."~~ or a code of practice developed by a nationally recognized association or independent testing laboratory. If the piping fails a tightness test, it shall be replaced or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's specifications. Following any repair, the piping shall be re-tested for ~~tightness.~~ tightness in accordance with Paragraph (f) of this Rule. The most recent periodic tightness test record shall be maintained at the UST site or the tank owner or operator's place of business and shall be available for inspection.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

15A NCAC 02N .0905 CONTAINMENT SUMPS

(a) Containment sumps ~~must~~ shall be constructed of non-corroding materials.

(b) Containment sumps ~~must~~ shall be designed and manufactured expressly for the purpose of containing and detecting a release.

(c) Containment sumps ~~must~~ shall be designed, constructed, installed and maintained to prevent water infiltration.

(d) Electronic sensor probes used for release detection monitoring ~~must~~ shall be located no more than two inches above the lowest point of the containment sump.

(e) At installation, containment sumps shall be tested for tightness after construction, but before backfilling. Tightness testing shall be conducted in accordance with the ~~manufacturers~~ manufacturer's written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." ~~Any change in water level shall be considered a failure of the integrity of the sump.~~ Other tightness test methods may be used if they are approved by the Division. In approving a containment sump tightness testing method the Division shall consider the following factors:

(1) ~~The~~ the inner surface of the sump is tested to at least ~~six~~ four inches above the highest joint or penetration fitting, whichever is higher; and

(2) ~~The~~ the method is capable of detecting a fracture, perforation or gap in the sump within the specified test period.

(f) If a containment sump fails an installation tightness test, the sump ~~must~~ shall be replaced or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's specifications. Following replacement or repair, the containment sump ~~must~~ shall be re-tested for tightness in accordance with Paragraph (e) of this Rule.

(g) Containment sumps that are not monitored ~~continuously~~ on an uninterrupted basis for releases using vacuum, pressure or hydrostatic interstitial monitoring methods shall be tested for tightness every three years following installation in accordance ~~with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems."~~ with:

(1) written requirements developed by the manufacturer;

(2) a code of practice developed by a nationally recognized association or independent testing laboratory; or

(3) requirements determined by the United States Environmental Protection Agency or the Division to be no less protective of human health and the environment than the requirements listed in Subparagraph (1) and (2) of this Paragraph.

If a containment sump fails a periodic tightness test, the sump ~~must~~ shall be replaced in accordance with Paragraphs (a), (b) and (c) of this Rule or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's ~~specifications.~~ specifications or a code of practice developed by a nationally recognized association or independent testing laboratory. Following replacement or repair, the

containment sump ~~must~~ shall be re-tested for tightness in accordance with Paragraph (e) of this Rule. The last periodic tightness test record ~~must~~ shall be maintained at the UST site or the tank owner or operator's place of business and ~~must~~ shall be ~~readily~~ available for inspection.

~~(g)~~(h) All containment sumps shall be visually inspected at least annually ~~for the presence of water or regulated substance.~~ in accordance with Rule .0407 of this Subchapter. Any water or regulated substance ~~must~~ present in a sump at the time of inspection shall be removed from the sump within 48 hours of discovery. The visual inspection results ~~must~~ shall be documented and ~~must~~ shall be maintained for at least one year at the UST site or the tank owner's or operator's place of business and ~~must~~ shall be ~~readily~~ available for inspection.

Authority G.S. 143-215.3(a)(15); 143B-282(2)(h).

15A NCAC 02N .0906 SPILL BUCKETS

(a) Spill buckets shall be pre-fabricated with double-walled construction.

(b) Spill buckets ~~must~~ shall be protected from corrosion by being constructed of non-corroding materials.

(c) Spill buckets ~~must~~ shall be designed, constructed, ~~installed~~ installed, and maintained to prevent water infiltration.

(d) After installation but before backfilling, the primary containment and interstitial space of the spill bucket shall be tested in accordance with the ~~manufacturers~~ manufacturer's written guidelines ~~and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems."~~ or a code of practice developed by a nationally recognized association or independent testing laboratory. Any change in vacuum during a vacuum test or any change in liquid level in an interstitial space liquid reservoir beyond the limits specified by the equipment manufacturer shall be considered a failure of the integrity of the spill bucket. If the spill bucket fails a tightness test, it ~~must~~ shall be replaced or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's specifications. Following any repair, the spill bucket ~~must~~ shall be re-tested for tightness in accordance with the manufacturers' written guidelines ~~and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems."~~ or a code of practice developed by a nationally recognized association or independent testing laboratory.

(e) Spill buckets that are not monitored ~~continuously~~ on an uninterrupted basis for releases using vacuum, pressure or hydrostatic methods, ~~must~~ shall be tested for tightness every three years following installation. The primary containment and interstitial space of the spill bucket shall be tested in accordance ~~with the manufacturers' written guidelines and PEI/RP100 "Recommended Practice for Installation of Underground Liquid Storage Systems."~~ with:

(1) written requirements developed by the manufacturer;

(2) a code of practice developed by a nationally recognized association or independent testing laboratory; or

(3) requirements determined by the United States Environmental Protection Agency or the Division to be no less protective of human health and the environment than the requirements listed in Subparagraph (1) and (2) of this Paragraph.

If the spill bucket fails a tightness test, it ~~must~~ shall be replaced and tested in accordance with Paragraphs (a) through (d) of this Rule or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's specifications. Following any repair, the spill bucket ~~must~~ shall be re-tested for ~~tightness.~~ tightness in accordance with Paragraph (d) of this Rule. The last periodic tightness test record ~~must~~ shall be maintained at the UST site or the tank owner or operator's place of business and ~~must~~ shall be ~~readily~~ available for inspection.

Authority G.S. 143-215.3(a)(15); 143B-282(2)(h).

15A NCAC 02N .0907 NATIONAL CODES OF PRACTICE AND INDUSTRY STANDARDS

In order to comply with this Section, owners and operators must comply with ~~either of~~ the following standards:

(1) The most recent versions of the following national codes of practice and industry standards applicable at the time of UST system installation or replacement shall be ~~used to comply with this Section.~~ used.

(a) American Concrete Institute (ACI) International ~~224R-89,~~ 224R-01, "Control of Cracking in Concrete Structures." ACI International ~~224R-89,~~ 224R-01, "Control of Cracking in Concrete Structures" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from ACI ~~International, P.O. Box 9094, Farmington Hills, Michigan 48333-9094~~ International at https://www.concrete.org/store/productdetail.aspx?ItemID=22401&Format=DOWNLOAD&Language=English&Units=US_AND_METRIC at a cost of ~~sixty-seven~~ seventy-four dollars and fifty cents ~~($67.50).~~ ($74.50).

(b) ACI International 350-06, "Environmental Engineering Concrete Structures." ACI International 350-06, "Environmental Engineering Concrete Structures" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from ACI ~~International, P.O. Box 9094, Farmington Hills, Michigan 48333-9094~~ International at https://www.concrete.org/store/productdetail.aspx?ItemID=35006&Language=English&Units=US_Units at a cost of one hundred ~~sixty-six~~ eighty-one dollars and fifty cents ~~($166.50).~~ ($181.50).

(c) American Petroleum Institute (API) Standard 570, "Piping Inspection Code: Inspection Repair, Alteration and Re-rating of In-Service Piping Systems." API Standard 570, "Piping Inspection Code: Inspection Repair, Alteration and Re-rating of In-Service Piping Systems" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from API ~~Publications, 15 Inverness Way East, M/S C303B, Englewood, Colorado 80112-5776~~ Publications at https://www.techstreet.com/api/standards/api-570?product_id=1910713 at a cost of one hundred ~~eight~~ eighty-five dollars ~~($108.00).~~ ($185.00).

(d) API Recommended Practice 1110, "Recommended Practice for the Pressure Testing of Liquid Petroleum Pipelines." API Recommended Practice 1110, "Recommended Practice for the Pressure Testing of Liquid Petroleum Pipelines" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from API ~~Publications, 15 Inverness Way East, M/S C303B, Englewood, Colorado 80112-5776~~ Publications at https://www.techstreet.com/api/standards/api-rp-1110-r2018?product_id=1852115 at a cost of ~~fifty-five~~ ninety-eight dollars ~~($55.00).~~ ($98.00).

(e) API Recommended Practice 1615, "Installation of Underground Petroleum Storage Systems." API Recommended Practice 1615, "Installation of Underground Hazardous Substances or Petroleum Storage Systems" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from API ~~Publications, 15 Inverness Way East, M/S C303B, Englewood, Colorado 80112-5776~~ Publications at https://www.techstreet.com/api/standards/api-rp-1615?product_id=1780646 at a cost of ~~one~~ two hundred ~~eight~~ eleven dollars ~~($108.00).~~ ($211.00).

(f) API Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets." API Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from API ~~Publications, 15 Inverness Way East, M/S C303B, Englewood, Colorado 80112-5776~~ Publications at https://www.techstreet.com/api/standards/api-rp-1621-r2012?product_id=14616 at a cost of ~~seventy-three~~ eighty-five dollars ~~($73.00).~~ ($85.00).

(g) API Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks." API Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from API ~~Publications, 15 Inverness Way East, M/S C303B, Englewood, Colorado 80112-5776~~ Publications at https://www.techstreet.com/api/standards/api-rp-1631?product_id=913787 at a cost of ~~seventy-six~~ eighty-nine dollars ~~($76.00).~~ ($89.00).

(h) API Recommended Practice 1637, "Using the API Color Symbol System to Mark Equipment and Vehicles for Product Identification at ~~Service Stations~~ Gasoline Dispensing Facilities and Distribution Terminals." API Recommended Practice 1637, "Using the API Color Symbol System to Mark Equipment and Vehicles for Product Identification at ~~Service Stations~~ Gasoline Dispensing Facilities and Distribution Terminals" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from API ~~Publications, 15 Inverness Way East, M/S C303B, Englewood, Colorado 80112-5776~~ Publications at https://www.techstreet.com/api/standards/api-rp-1637-r2012?product_id=1274225 at a cost of ~~fifty-nine~~ sixty-eight dollars ~~($59.00).~~ ($68.00).

(i) American Society of Mechanical Engineers (ASME) International: B31.4-2006, ~~"2006 Pipeline~~ "Pipeline Transportation Systems for ~~Liquid Hydrocarbons~~ Liquids and ~~other Liquids."~~ Slurries." ASME International: B31.4-2006, ~~"2006 Pipeline~~ "Pipeline Transportation

Systems for ~~Liquid Hydrocarbons~~ Liquids and ~~other Liquids."~~ Slurries" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from ~~ASME, 22 Law Drive, Box 2900, Fairfield, NJ 07007-2900~~ ASME at https://www.asme.org/codes-standards/find-codes-standards/b31-4-pipeline-transportation-systems-liquids-slurries at a cost of ~~one~~ two hundred ~~twenty nine~~ fifteen dollars ~~($129.00).~~ ($215.00).

(j) National Fire Protection Association (NFPA) 30, "Flammable and Combustible Liquids Code." NFPA 30, "Flammable and Combustible Liquids Code" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from National Fire Protection ~~Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471~~ Association at https://catalog.nfpa.org/NFPA-30-Flammable-and-Combustible-Liquids-Code-P1164.aspx?icid=D729 at a cost of ~~forty-two dollars and fifty cents ($42.50).~~ seventy-five dollars ($75.00).

(k) NFPA 30A, ~~"Automotive and Marine Service Station Code."~~ "Code for Motor Fuel Dispensing Facilities and Repair Garages." NFPA 30A, ~~"Automotive and Marine Service Station Code"~~ "Code for Motor Fuel Dispensing Facilities and Repair Garages" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from National Fire Protection ~~Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471~~ Association at https://catalog.nfpa.org/NFPA-30A-Code-for-Motor-Fuel-Dispensing-Facilities-and-Repair-Garages-P1165.aspx?icid=D729 at a cost of ~~thirty-three~~ fifty dollars and fifty cents ~~($33.50).~~ ($50.50).

(l) NFPA 329, ~~"Handling Underground~~ "Recommended Practice for Handling Releases of Flammable and Combustible ~~Liquids."~~ Liquids and Gases." NFPA 329, ~~"Handling Underground~~ "Recommended Practice for Handling Releases of Flammable and Combustible ~~Liquids."~~ Liquids and Gases" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from National Fire Protection ~~Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471~~ Association at https://catalog.nfpa.org/NFPA-329-Recommended-Practice-for-Handling-Releases-of-Flammable-and-Combustible-Liquids-and-Gases-P1287.aspx?icid=D729 at a cost of ~~thirty-three~~ fifty dollars and fifty cents ~~($33.50).~~ ($50.50).

(m) PEI: PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." PEI: PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Petroleum Equipment Institute at https://www.techstreet.com/pei/standards/pei-rp100-17?gateway_code=pei&product_id=1945712 at a cost of one hundred ninety-five dollars ($195.00).

(n) PEI: PEI/RP1200, "Recommended Practice for Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities." PEI: PEI/RP1200, "Recommended Practice for Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Petroleum Equipment Institute at https://www.techstreet.com/pei/standards/pei-rp1200-17?product_id=1952629 at a cost of one hundred ninety-five dollars ($195.00).

~~(n)~~(o) Steel Tank Institute (STI) ACT 100 F894, "Specifications for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks." Steel Tank Institute (STI) ACT 100 F894, "Specifications for External Corrosion Protection of FRP Composite Steel Underground Storage

Tanks" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Steel Tank Institute, at ~~570 Oakwood Road, Lake Zurich, Illinois 60047~~ https://www.steeltank.com/Publications/STISPFAStore/ProductDetail/tabid/502/rvdsfpid/act-100-specification-for-external-corrosion-protection-of-frp-composite-steel-usts-f894-2/Default.aspx at a cost of ~~fifty~~ sixty dollars ~~($50.00).~~ ($60.00).

~~(o)~~(p) STI ACT 100-U F961, "Specifications for External Corrosion Protection of Composite Steel Underground Storage Tanks." STI ACT 100-U F961, "Specifications for External Corrosion Protection of Composite Steel Underground Storage Tanks" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Steel Tank ~~Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047~~ Institute at https://www.steeltank.com/Publications/STISPFAStore/ProductDetail/tabid/502/rvdsfpid/act-100u-specification-for-external-corrosion-protection-of-composite-steel-underground-storage-tanks-f961-250/Default.aspx at a cost of ~~fifty~~ sixty dollars ~~($50.00).~~ ($60.00).

~~(p)~~(q) STI ~~922,~~ F922, "Specifications for Permatank." STI ~~922,~~ F922, "Specifications for Permatank" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Steel Tank ~~Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047~~ Institute at https://www.steeltank.com/Publications/STISPFAStore/ProductDetail/tabid/502/rvdsfpid/permatank-f922-specification-for-permatank-231/Default.aspx at a cost of ~~fifty~~ sixty dollars ~~($50.00).~~ ($60.00).

~~(q)~~(r) Underwriters UL 58, "Steel Underground tanks for Flammable and Combustible Liquids." UL 58, "Steel Underground tanks for Flammable and Combustible Liquids" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters ~~Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096~~ Laboratories at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=33920 at a cost of ~~four~~ five hundred ~~forty-five~~ and two dollars ~~($445.00).~~ ($502.00).

~~(r)~~(s) UL 567, ~~"Pipe~~ "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Petroleum Products and LP Gas." UL 567, ~~"Pipe~~ "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings Petroleum Products and LP Gas" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters ~~Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096~~ Laboratories at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=27791 at a cost of eight hundred ~~eighty-five~~ ninety-seven dollars ~~($885.00).~~ ($897.00).

(t) UL 567A, "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Gasoline and Gasoline/Ethanol Blends with Nominal Ethanol Concentrations up to 85 Percent (E0 – E85)." UL 567A, "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Gasoline and Gasoline/Ethanol Blends with Nominal Ethanol Concentrations up to 85 Percent (E0 – E85)" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters Laboratories at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=29197 at a cost of six hundred thirty-one dollars ($631.00).

(u) UL 567B, "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Diesel Fuel, Biodiesel Fuel, Diesel/Biodiesel Blends with Nominal Biodiesel Concentrations up to 20 Percent (B20), Kerosene, and Fuel Oil." UL 567B, "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Diesel Fuel, Biodiesel Fuel, Diesel/Biodiesel

Blends with Nominal Biodiesel Concentrations up to 20 Percent (B20), Kerosene, and Fuel Oil" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters Laboratories at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=29195 at a cost of four hundred and two dollars ($402.00).

~~(s)~~(v) UL 971, ~~"Nonmetallic~~ "Standard for Nonmetallic Underground Piping for Flammable ~~Liquids;"~~ Liquids." UL 971, "Standard for Nonmetallic Underground Piping for Flammable Liquids" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from UL at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=7936 at a cost of four hundred and two dollars ($402.00).

(w) UL 971A, "Outline of Investigation for Metallic Underground Fuel Pipe." UL 971A, "Outline of Investigation for Metallic Underground Fuel Pipe" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from UL at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=15373 at a cost of two hundred and twenty-five dollars ($225.00).

~~(t)~~(x) UL 1316, ~~"Glass-Fiber-Reinforced Plastic~~ "Standard for Fibre Reinforced Underground ~~Storage~~ Tanks for ~~Petroleum Products, Alcohols,~~ Flammable and ~~Alcohol-Gasoline Mixtures."~~ Combustible Liquids." UL 1316, ~~"Glass-Fiber-Reinforced Plastic~~ "Standard for Fibre Reinforced Underground ~~Storage~~ Tanks for ~~Petroleum Products, Alcohols,~~ Flammable and ~~Alcohol-Gasoline Mixtures."~~ Combustible Liquids" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters ~~Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096~~ Laboratories at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=35172 at a cost of four hundred ~~forty-five~~ and two dollars ~~($445.00); or~~ ($402.00).

~~(u)~~(y) UL 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks." UL 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters ~~Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096~~ Laboratories at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=15742 at a cost of ~~eight~~ nine hundred ~~eighty-five~~ ninety-eight dollars ~~($885.00); or~~ ($998.00); and

(2) Other appropriate codes or standards applicable at the time of UST system installation or replacement may be used provided they are developed by ACI, American National Standards Institute (ANSI), API, ASME, ASTM, NFPA, National Leak Prevention Association (NLPA), PEI, STI and UL.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

SUBCHAPTER 02O - FINANCIAL RESPONSIBILITY REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS

SECTION .0100 - GENERAL CONSIDERATIONS

15A NCAC 02O .0101 GENERAL

(a) ~~The purpose of this Subchapter is to establish the requirements for financial responsibility for owners~~ Owners and operators of ~~underground storage tanks~~ underground storage tank systems that are subject to regulation pursuant to 40 CFR 280.10 and located in ~~North Carolina.~~ North Carolina, shall comply with the financial responsibility requirements in this Subchapter.

(b) The Department of ~~Environment, Health, and Natural Resources~~ Environmental Quality (Department), Division of Waste Management (Division) shall administer the underground storage tank financial responsibility compliance program for the State of North Carolina.

(c) Department staff may conduct inspections ~~as necessary~~ to ensure compliance with this Subchapter.

Authority G.S. 143-215.3(a)(15); 143-215.94H; ~~143B-282(2)(h)~~ 143B-282(a)(2)(h).

15A NCAC 02O .0102 ~~COPIES OF REFERENCED FEDERAL REGULATIONS~~ FINANCIAL RESPONSIBILITY

~~(a) Copies of applicable Code of Federal Regulations sections incorporated in this Subchapter are available for inspection at Department of Environment, Health, and Natural Resources regional offices. They are:~~

(1) Asheville Regional Office, Interchange Building, 59 Woodfin Place, Asheville, North Carolina 28802;
(2) Winston-Salem Regional Office, Suite 100, 8025 North Point Boulevard, Winston-Salem, North Carolina 27106;
(3) Mooresville Regional Office, 919 North Main Street, Mooresville, North Carolina 28115;
(4) Raleigh Regional Office, 3800 Barrett Drive, Post Office Box 27687, Raleigh, North Carolina 27611;
(5) Fayetteville Regional Office, Wachovia Building, Suite 714, Fayetteville, North Carolina 28301;
(6) Washington Regional Office, 1424 Carolina Avenue, Farish Building, Washington, North Carolina 27889;
(7) Wilmington Regional Office, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.

(b) Copies of such regulations can be made at these regional offices for ten cents ($0.10) per page. Individual complete copies may be obtained from the U.S. Environmental Protection Agency, Office of Underground Storage Tanks, Post Office Box 6044, Rockville, Maryland 20850 for no charge.

The governing Federal Regulations set forth below are hereby incorporated by reference excluding any subsequent amendments and editions. Copies may be obtained at www.ecfr.gov/cgi-bin/ECFR?page=browse at no cost.

(1) 40 CFR 280.90, "Applicability";
(2) 40 CFR 280.91, "Compliance Dates";
(3) 40 CFR 280.94, "Allowable Mechanisms and Combinations of Mechanisms";
(4) 40 CFR 280.96, "Guarantee";
(5) 40 CFR 280.98, "Surety Bond";
(6) 40 CFR 280.99, "Letter of Credit";
(7) 40 CFR 280.102, "Trust Fund";
(8) 40 CFR 280.103, "Standby Trust Fund";
(9) 40 CFR 289.104, "Local Government Bond Rating Test";
(10) 40 CFR 280.105, "Local Government Financial Test";
(11) 40 CFR 280.106, "Local Government Guarantee";
(12) 40 CFR 280.107, "Local Government Fund";
(13) 40 CFR 280.108, "Substitution of Financial Assurance Mechanisms by Owner or Operator";
(14) 40 CFR 280.109, "Cancellation or Nonrenewal by a Provider of Financial Assurance";
(15) 40 CFR 280.110, "Reporting by Owner or Operator";
(16) 40 CFR 280.112, "Drawing on Financial Assurance Mechanisms";
(17) 40 CFR 290.113. "Release from the Requirements".

Authority G.S. 12-3.1(c); 143-215.3(a)(15); 143B-282(2)(h).

15A NCAC 02O .0103 SUBSTITUTED SECTIONS

(a) References to sections of the Federal Regulations incorporated by reference will refer to those sections and any subsequent amendments and editions.

(b) References to 40 CFR 280.93 are to be taken as references to Rule .0204 of this Subchapter, with Paragraph correspondence being: 40 CFR 280.93(a) corresponds to 15A NCAC 2O .0204(a) and (b); 40 CFR 280.93(b) corresponds to 15A NCAC 2O .0204(c) and (d); 40 CFR 280.93(c) and (d) have no correspondence; and 40 CFR 280.93(e), (f), (g), and (h) correspond to 15A NCAC 2O .0204(f), (g), (h), and (i), respectively.

(c) References to 40 CFR 280.95 are to be taken as references to Rule .0302 of this Subchapter, with Paragraph correspondence being: 40 CFR 280.95(a), (e), (f), and (g) correspond to 15A NCAC 2O .0302(a), (c), (d), and (e), respectively; 40 CFR 280.95(b) and (c) correspond to 15A NCAC 2O .0302(b); 40 CFR 280.95(d) corresponds to 15A NCAC 2O .0302(f) and (g).

Authority G.S. 143-215.94H; 143-215.94T; 150B-21.6.

SECTION .0200 - PROGRAM SCOPE

15A NCAC 02O .0201 APPLICABILITY

(a) The provisions for "Applicability" contained in 40 CFR 280.90 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.

(b) The Rules contained in this Subchapter apply to all dual usage tanks as defined in Rule .0203 of this Section.

Authority G.S. 143-215.94A; 143-215.94H; 143-215.94T; 150B-21.6.

15A NCAC 02O .0202 COMPLIANCE DATES

The provisions for "Compliance Dates" contained in 40 CFR 280.91 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.

Authority G.S. 143-215.94A; 143-215.94H; 150B-21.6.

15A NCAC 02O .0203 DEFINITIONS

(a) The definitions contained in 15A NCAC 2N .0203 and 40 CFR 280.92 are hereby incorporated by reference including any subsequent amendments and editions, reference, except for "Director of the Implementing Agency", "Occurrence", and "Financial Reporting Year". Locations where this material is available are specified in Rule .0102 of this Subchapter. as modified below. The federal regulation may be accessed at www.ecfr.gov/cgi-bin/ECFR?page=browse at no charge.

(1) "Director of the Implementing Agency" shall mean the Director of the Division of Waste Management.
(2) "Financial reporting year" shall be modified to allow a compilation report to be used to support a financial test. The compilation report shall be prepared by a Certified Public Accountant

(CPA) or Certified Public Accounting Firm (CPA Firm) as defined in 21 NCAC 08A .0301.

(b) The following definitions ~~are defined for the purposes of~~ shall apply throughout this Subchapter:

~~(1) "Annual Operating Fee" is an annual fee required to be paid by the owner or operator of each commercial underground storage tank, as defined in G.S. 143-215.94A, in use on or after January 1 of the year, beginning with 1989.~~

~~(2) "Dual Usage Tank" means an underground storage tank which has had varied usage which would cause the tank to be considered an underground storage tank regulated in accordance with 15A NCAC 2N during certain times and an unregulated tank during other times and for which both the regulated and unregulated usages were integral to the operation or existence of the tank.~~

~~(3) "Director of the Implementing Agency" means the Director of the Division of Environmental Management of the Department of Environment, Health, and Natural Resources.~~

~~(4) "Financial reporting year" means the latest consecutive twelve month period for which any of the following reports used to support a financial test is prepared:~~

~~(A) a 10K report submitted to the SEC;~~

~~(B) an annual report of tangible net worth submitted to Dun and Bradstreet;~~

~~(C) annual reports submitted to the Energy Information Administration or the Rural Electrification Administration; or~~

~~(D) a compilation report by a Certified Public Accountant or Certified Public Accounting Firm.~~

~~(5) "Occurrence" means one or more releases which result(s) in a single plume of soil, groundwater, and/or surface water contamination (consisting of free product and/or associated dissolved contaminants exceeding standards established under 15A NCAC 2L .0202 or any other applicable laws, rules, or regulations) emanating from a given site.~~

(1) "Independent" Certified Public Accountant or Certified Public Accounting Firm shall mean a CPA or CPA firm that examines the financial records and business transactions of an owner, operator or guarantor for whom the CPA or CPA firm is not affiliated.

(2) "Financial assurance" shall mean per occurrence and annual aggregate amounts of financial responsibility, collectively.

Authority G.S. 143-215.94A; 143-215.94H; 150B-21.6.

15A NCAC 02O .0204 AMOUNT AND SCOPE OF REQUIRED FINANCIAL RESPONSIBILITY

~~(a) Owners or operators of petroleum underground storage tanks located in North Carolina must demonstrate financial responsibility for at least one million dollars ($1,000,000) per occurrence for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks.~~

~~(b) Compliance with all laws, rules, and regulations relating to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund shall constitute demonstration of financial responsibility for that amount specified in Paragraph (a) of this Rule which is in excess of the sum of the amounts required to be paid per occurrence by the owner or operator for cleanup and for third-party claims.~~

~~(c) Owners or operators of petroleum underground storage tanks located in North Carolina must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following annual aggregate amounts:~~

~~(1) For owners or operators of one to 100 petroleum underground storage tanks, one million dollars ($1,000,000); and~~

~~(2) For owners or operators of 101 or more petroleum underground storage tanks, two million dollars ($2,000,000).~~

~~(d) If all laws, rules, and regulations relating to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund are complied with, the owner or operator may meet the financial responsibility requirements of Paragraph (c) of this Rule by providing an annual aggregate financial assurance of at least the sum of the amounts specified in Subparagraphs (d)(1), (2), and (3) of this Rule as follows, in addition to the assurance provided by the Commercial Fund:~~

~~(1) The average maximum amount required to be paid by an owner or operator per occurrence for cleanup as determined in accordance with Paragraph (e) of this Rule;~~

~~(2) The average maximum amount required to be paid by an owner or operator per occurrence for third party claims as determined in accordance with Paragraph (e) of this Rule; and~~

~~(3) Three percent of the multiple of:~~

~~(A) the amount in Subparagraph (d)(1) of this Rule; and~~

~~(B) the number of tanks being covered.~~

~~(e) An owner or operator providing financial assurance for more than one underground storage tank where the various tanks do not all require the same maximum amounts to be paid per occurrence for cleanup and/or third party claims shall calculate an average maximum amount to be paid per occurrence as follows:~~

~~(1) Determine the maximum amount to be paid per occurrence for each underground storage tank being assured;~~

(2) Sum the values determined in Subparagraph (e)(1) of this Rule and divide by the number of underground storage tanks being assured.

(a) Pursuant to G.S. 143-215.94H(a)(2), owners or operators shall maintain evidence of financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks. The minimum financial responsibility that must be maintained per occurrence is determined by calculating the sum of the following:

(1) twenty thousand dollars ($20,000) for taking corrective action to cleanup environmental damage pursuant to G.S. 143-215.94(B)(b)(3);

(2) one hundred thousand dollars ($100,000) for compensating third parties for bodily injury and property damage pursuant to G.S. 143-215.94(B)(b)(5); and

(3) the multiple of six hundred dollars ($600.00) and the number of petroleum underground storage tanks that an owner or operator owns or operates in the state of North Carolina.

(b) The minimum financial responsibility that shall be maintained as an annual aggregate is equal to the per occurrence amount.

(f)(c) Owners or operators shall annually review the amount of aggregate financial assurance provided. The amount of required financial responsibility and annual aggregate assurance shall be adjusted at the time of the review to that required in Paragraphs (a), (b), (c), and (d) of this Rule. All changes in status, including installations and closures, shall be reported to the Department, and all fees due shall be paid in accordance with applicable laws, rules, and regulations. review.

(g)(d) If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum underground storage tanks, the annual aggregate amount of financial assurance required shall be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.

(h)(e) The amount s of financial assurance required under this Rule exclude s legal defense costs.

(i)(f) The required per occurrence and annual aggregate coverage amounts do amount of financial assurance does not in any way limit the liability of the owner or operator.

(j)(g) Assurance Evidence of financial responsibility for petroleum underground storage tanks located in North Carolina must shall be provided separately from that provided for petroleum underground storage tanks not located in North Carolina.

Authority G.S. 143-215.94H; 143-215.94T.

SECTION .0300 - ASSURANCE MECHANISMS

15A NCAC 02O .0301 ALLOWABLE MECHANISMS AND COMBINATIONS OF MECHANISMS

The provisions for "Allowable Mechanisms and Combinations of Mechanisms" contained in 40 CFR 280.94 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter. "Guarantee" and "Surety Bond" are acceptable mechanisms in the State of North Carolina.

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0302 SELF INSURANCE

(a) Assurance of financial responsibility may be provided by an owner or operator or guarantor as a self-insurer if the owner or operator has complied with all of the laws, rules, and regulations relative to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the owner or operator or guarantor either establishes a Trust Fund as set out in Paragraph (h) of this Rule or qualifies to be a self-insurer An owner, operator or guarantor may meet the financial responsibility requirements by passing the financial test specified in Paragraph (b) of this Rule or a financial test of 40 CFR 280.95. of this Rule.

(b) To qualify as an insurer, an An owner, operator, operator or guarantor, individually or collectively, must shall meet the following criteria based on year-end financial statements for the latest completed fiscal year.

(1) The owner or operator, operator or guarantor, individually or collectively must shall have a total tangible net worth of at least: at least one hundred fifty thousand dollars ($150,000) and not more than three million dollars ($3,000,000):

(A) The sum of the amounts specified in Subparagraphs (b)(1)(A)(i) and (ii) of this Rule as follows, not to exceed three million dollars ($3,000,000) and not to be less than one hundred fifty thousand dollars ($150,000):

(i) the multiple of:

(2) A cleanup cost factor determined by multiplying the following:

(I) the number of tanks being covered by this mechanism,

(A) the number of petroleum underground storage tanks that an owner or operator owns and/or operates in the state of North Carolina and that are covered by self-insurance. USTs that are manifolded together are considered separate USTs. A multi-compartment UST is considered one UST;

(II) the cleanup costs required to be paid by the owner or operator per occurrence in accordance with G.S. 143-215.94B(b),

(B) twenty thousand dollars ($20,000) for taking corrective action to cleanup environmental damage pursuant to G.S. 143-215.94(B)(b)(3);

~~(III) the proportion of the required financial assurance required pursuant to Rule .0204 of this Subchapter being covered by this mechanism, and~~

(C) the proportion of financial assurance required pursuant to Rule .0204 of this Subchapter being covered by self-insurance; and

~~(IV) a constant representing an average value per tank calculated from 0.05 for each underground storage tank covered by this mechanism which is in compliance with any performance standards required on December 22, 1998, and 0.18 for each underground storage tank covered by this mechanism which is not in compliance with any performance standards required on December 22, 1998.~~

(D) a constant equal to 0.05.

~~(ii) two percent of the multiple of:~~

(3) A third party liability cost factor determined by multiplying the following:

~~(I) the number of tanks being covered by this mechanism,~~

(A) the number of petroleum underground storage tanks that an owner or operator owns and/or operates in the state of North Carolina and that are covered by self-insurance;

~~(II) the amount for third party claims required to be paid by the owner or operator per occurrence in accordance with G.S. 143-215.94B(b),~~

(B) one hundred thousand dollars ($100,000) for compensating third parties for bodily injury and property damage pursuant to G.S. 143-215.94(B)(b)(5); and

~~(III) the proportion of the required financial assurance required pursuant to Rule .0204 of the Subchapter being covered by this mechanism,~~

(C) the proportion of financial assurance required pursuant to Rule .0204 of this Subchapter being covered by self-insurance; and

(D) a constant equal to 0.02.

~~(B) Any amount of tangible net worth used to assure financial responsibility for petroleum underground storage tanks not located in North Carolina;~~

(4) The amount of tangible net worth used to assure financial responsibility for petroleum underground storage tanks not located in North Carolina;

~~(C) Ten times the sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for Hazardous Waste Management Facilities and Hazardous Waste Storage Facilities for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR Parts 264.101, 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 or to a state implementing agency under a state program authorized by EPA under 40 CFR Part 271; and~~

(5) Ten times the sum of the corrective action cost estimates (40 CFR 264.101(b)), the closure (40 CFR 264.143 and 265.143) and post-closure care (40 CFR 264.145 and 265.145) cost estimates, and amount of liability coverage (40 CFR 264.147 and 265.147) for Hazardous Waste Management Facilities and Hazardous Waste Storage Facilities for which a financial test is used to demonstrate financial responsibility to EPA or to a State implementing agency under a State program authorized by EPA under 40 CFR 271; and

~~(D) Ten times the sum of current plugging and abandonment cost estimates for injection wells for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR Part 144.63 or to a state implementing~~

~~agency under a state program authorized by EPA under 40 CFR Part 145.~~

(6) Ten times the sum of current plugging and abandonment cost estimates for injection wells (40 CFR 144.63) for which a financial test is used to demonstrate financial responsibility to the EPA under 40 CFR 144.63 or to a State implementing agency under a State program authorized by EPA under 40 CFR Part 145.

~~(2)~~(7) In addition to any other requirements of this Section, a ~~Guarantor must~~ guarantor shall have a net worth of at least two hundred thousand dollars ($200,000) greater than any tangible net worth used by the guarantor in ~~Subparagraph (b)(1) of this Rule.~~ Subparagraph (1) of this Paragraph.

~~(3) The owner or operator, or guarantor, individually or collectively, must each have a letter signed by the chief financial officer, worded as specified in Paragraph (g) of this Rule, and must do one of the following:~~

~~(A) Obtain annually a compilation report issued by an independent certified public accountant or certified public accounting firm;~~

~~(B) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration; or~~

~~(C) Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.~~

(c) The owner or ~~operator,~~ operator or guarantor, individually or collectively, ~~must~~ shall each have a letter signed by the chief financial officer, worded as specified in Paragraph (g) of this Rule, and ~~must~~ shall do one of the following:

(1) Obtain annually a compilation report issued by an independent certified public accountant or certified public accounting firm;

(2) ~~File~~ Pursuant to 40 CFR 280.95(b)(4)(i), file financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration; or

(3) ~~Report~~ Pursuant to 40 CFR 280.95(b)(4)(ii), report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.

~~(4) The firm's year-end financial statements must be independently compiled and cannot include an adverse accountant's report or a "going concern" qualification.~~

(d) The firm's year-end financial statements cannot include an adverse accountant's report or a "going concern" qualification.

~~(c)~~(e) ~~If an owner or operator is acting as a self insurer in accordance with Paragraph (b) of this Rule and finds that he or she no longer meets the requirements of the test in Paragraph (b) of this Rule based on the year-end financial statements, the owner or operator must obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.~~ 40 CFR 280.95(d), (e), (f) and (g) are incorporated by reference except that "financial test" means the financial test specified in Paragraph (b) of this Rule.

~~(d) The Department may require reports of financial condition at any time from a guarantor and from an owner or operator who is self insuring. If the Department finds, on the basis of such reports or other information, that the owner, operator, or guarantor no longer meets the financial test requirements of Paragraph (b) of this Rule, the owner or operator must obtain alternate coverage within 30 days after notification of such a finding.~~

~~(e) If the owner or operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the Department that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Department of such failure within 10 days.~~

(f) To demonstrate that it meets the financial test under Paragraph (b) of this Rule, the chief financial officer of each ~~owner or~~ owner, operator or guarantor ~~must~~ shall sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as in Paragraph (g) of this Rule, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(g) LETTER FROM CHIEF FINANCIAL OFFICER

I, [insert: name of chief financial officer], the chief financial officer of [insert: name and address of the ~~owner or operator,~~ owner, operator or guarantor] have prepared this letter in support of the use of [insert: "the financial test of self-insurance," and/or "guarantee"] to demonstrate financial responsibility for [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert: "owner or operator," or "guarantor"]:

[List or attach the following information for each facility: the name and address of the facility where tanks assured by this financial test are ~~located,~~ located and facility number(s) assigned by the ~~Department, and date(s) of last payment of annual tank operating fee(s).~~ Department. If separate mechanisms or combinations of ~~mechanisms, other than the Commercial Leaking Petroleum Underground~~

~~Storage Tank Cleanup Fund~~ mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test.]

[When appropriate, include the following for Hazardous Waste Management Facilities, Hazardous Waste Storage Facilities, and Injection Wells:

A ~~{insert: "financial test," or "guarantee"}~~ [insert: "financial test" or "guarantee"] is also used by this ~~{insert: "owner or operator," or "guarantor"}~~ [insert: "owner, operator" or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under EPA regulations or state programs authorized by EPA under 40 CFR Parts 271 and 145:

EPA Regulations	Amount
Closure (including ~~□264.143 and □265.143)~~ 40 CFR 264.143 and 265-143)	$_____
Post-Closure Care (including ~~□264.145 and □265.145)~~ 40 CFR 264.145 and 265.145)	$_____
Liability Coverage (including ~~□264.147 and □265.147)~~ 40 CFR 264.147 and 265.147)	$_____
Corrective Action (including ~~□264.101(b))~~ 40 CFR 264.101(b))	$_____
Plugging and Abandonment (including ~~□144.63)~~ 40 CFR 144.63)	$_____
Total	$_____]

This [insert: ~~"owner or operator,"~~ "owner, operator" or "guarantor"] has not received an adverse report or a "going concern" qualification from an independent accountant on his financial statements for the latest completed fiscal year.

~~1.~~	~~a.~~	~~Number of USTs being covered~~	~~_____~~
	~~b.~~	~~Average maximum amount of cleanup costs (Rule .0204(d)(1))~~	~~_____~~
	~~c.~~	~~Average maximum amount of third-party costs (Rule .0204(d)(2))~~	~~_____~~
	~~d.~~	~~Proportion covered~~	~~_____~~
	~~e.~~	~~Constant (Rule .0302(b)(1)(A)(i))~~	~~_____~~
	~~f.~~	~~Cleanup Total (a x b x d x e)~~	~~$_____~~
	~~g.~~	~~Third-Party Total (0.02 x a x c x d)~~	~~$_____~~
	~~h.~~	~~If Guarantor, list $200,000~~	~~$_____~~
~~2. Tangible assets applied to USTs not in North Carolina~~			~~$_____~~
~~3. Ten times the costs for Hazardous Waste Facilities and Injections Wells~~			~~$_____~~
~~4. Sum of lines 1f, 1g, 1h, and 2~~			~~$_____~~
~~5. Total tangible assets~~			~~$_____~~
~~6. Total liabilities [if any of the amount reported on line 4 is included in total liabilities, you may deduct that amount from this line and add that amount to line 7]~~			~~$_____~~
~~7. Tangible net worth [subtract line 6 from line 5]~~			~~$_____~~
1.	a.	Number of USTs in North Carolina being covered	_____
	b.	Proportion covered	_____
	c.	Cleanup cost factor (multiply 0.05 x $20,000 x #1a and #1b)	$_____
	d.	Third party liability cost factor (multiply 0.02 x $100,000 x #1a and #1b)	$_____
2.		Cleanup and third-party liability cost factor total (sum of #1c and #1d)	$_____
3.		Guarantor factor (enter $200,000, if guarantor)	$_____
4.		Net worth used to assure environmental liabilities for Hazardous Waste Management Facilities, Hazardous Waste Storage Facilities, and Injection Wells multiplied by 10	$_____
5.		Net worth used to assure environmental liabilities for USTs outside of North Carolina	$_____
6.		Total net worth required to self-insure or to be a guarantor (sum of #2, #3, #4 and #5)	$_____
7.		Total tangible assets	$_____
8.		Total liabilities (if any of the amount reported for #6 is included in total liabilities, you may deduct that amount from this line and add that amount to #9)	$_____
9.		Tangible net worth (subtract #8 from #7)	$_____

	Yes	No
~~8.~~ 10. Is line ~~7~~ 9 at least [for an owner or operator: $150,000; for a guarantor: $350,000]?	_____	_____
~~9.~~ 11. Is line ~~7~~ 9 equal to or greater than line ~~4?~~ 6?	_____	_____
~~10.~~ 12. Has a compilation report been issued by an independent certified public accountant or certified public accounting firm?	_____	_____
~~11.~~ 13. Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission?	_____	_____
~~12.~~ 14. Have financial statements for the latest fiscal year been filed with the Energy Information Administration?	_____	_____
~~13.~~ 15. Have financial statements for the latest fiscal year been filed with the Rural Electrification Administration?	_____	_____

~~14.~~ 16. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met] _____ _____

I hereby certify that the wording of this letter is identical to the wording specified in 15A NCAC 02O .0302, as such regulations were constituted on the date shown immediately below, and that the information contained herein is complete and accurate.

[Signature of chief financial officer]
[Name]
[Title]
[Date]

~~(h) The provisions for "Trust Fund" contained in 40 CFR 280.102 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.~~

Authority G.S. 58-2-205; 143-215.94H; 150B-21.6.

15A NCAC 02O .0303 GUARANTEE

~~The provisions for "Guarantee" contained in 40 CFR 280.96 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0304 INSURANCE AND RISK RETENTION GROUP COVERAGE

~~The provisions for "Insurance and Risk Retention Group Coverage" contained in~~ 40 CFR 280.97 entitled "Insurance and Risk Retention Group Coverage" ~~are hereby~~ is incorporated by ~~reference including~~ reference, excluding any subsequent amendments and editions, except that "licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states" in ~~280.97(b)(1),~~ 40 CFR 280.97(b)(1), (b)(2), and (c) is replaced by "licensed, registered, or otherwise authorized to provide insurance in North Carolina". ~~Locations where this material is available are specified in Rule .0102 of this Subchapter.~~ This document may be accessed at www.ecfr.gov/cgi-bin/ECFR?page=browse at no charge. The requirements in 40 CFR 280.97 shall be met to demonstrate financial responsibility by insurance pursuant to G.S. 143-215.94H.

Authority G.S. ~~58-2-125; 58-22;~~ 143-215.94H; 150B-21.6.

15A NCAC 02O .0305 SURETY BOND

~~The provisions for "Surety Bond" contained in 40 CFR 280.98 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0306 LETTER OF CREDIT

~~The provisions for "Letter of Credit" contained in 40 CFR 280.99 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0307 STANDBY TRUST FUND

~~The provisions for "Standby Trust Fund" contained in 40 CFR 280.103 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0308 INSURANCE POOLS

(a) Insurance Pools established by owners and operators may be used alone or in combination to demonstrate financial assurance in accordance with ~~Rules .0204 and .0301~~ Rule .0204 of this Subchapter.

(b) To be an eligible ~~mechanism,~~ mechanism for demonstrating financial assurance, Insurance Pools ~~must~~ shall comply with the requirements of ~~G.S. 143-215.94I and any other requirements imposed by the Commissioner of Insurance of the State of North Carolina and any relevant law, rule, or regulation.~~ G.S. 143-215.94I.

(c) Each owner and operator ~~provided~~ providing financial assurance through an Insurance Pool ~~must~~ shall maintain a certificate of insurance issued by the Insurance Pool ~~listing, at least:~~ that lists at a minimum the following information:

(1) the name and address of the member;
(2) the location of the facilities owned by that member where underground storage tanks are being insured by the pool;
(3) the number of insured underground storage tanks at each facility;
(4) the capacity of each insured underground storage tank;
(5) the amount of insurance provided for each underground storage tank; and
(6) the name, address, and signature of the Administrator of the Insurance Pool.

Authority G.S. 143-215.94H; 143-215.94I.

15A NCAC 02O .0311 LOCAL GOVERNMENT BOND RATING TEST

~~The regulations governing "Local Government Bond Rating Test" set forth in 40 CFR 280.104 (Subpart H) are hereby incorporated by reference.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0312 LOCAL GOVERNMENT FINANCIAL TEST

~~The regulations governing "Local Government Financial Test" set forth in 40 CFR 280.105 (Subpart H) are hereby incorporated by reference.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0313 LOCAL GOVERNMENT GUARANTEE

~~The regulations governing "Local Government Guarantee" set forth in 40 CFR 280.106 (Subpart H) are hereby incorporated by reference.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0314 LOCAL GOVERNMENT FUND

~~The regulations governing "Local Government Fund" set forth in 40 CFR 280.107 (Subpart H) are hereby incorporated by reference.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0315 SUBSTITUTION OF FINANCIAL ASSURANCE MECHANISMS

~~The regulations governing "Substitution of Financial Assurance Mechanisms by Owners or Operators" set forth in 40 CFR 280.108 (Subpart H) are hereby incorporated by reference.~~

Authority G.S. 143-21 5.94H; 150B-21.6.

15A NCAC 02O .0316 CANCELLATION OR RENEWAL BY A PROVIDER OF ASSURANCE

~~The regulations governing "Cancellation or Non renewal by a Provider of Financial Assurance " set forth in 40 CFR 280.109 (Subpart H) are hereby incorporated by reference.~~

Authority G.S. 143-21 5.94H; 150B-21.6.

SECTION .0400 - RESPONSIBILITIES OF OWNERS AND OPERATORS

15A NCAC 02O .0401 REPORTING BY OWNER OR OPERATOR

~~The provisions for "Reporting by Owner or Operator" contained in 40 CFR 280.106 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0402 RECORD KEEPING

(a) ~~The provisions for "Record Keeping" contained in~~ 40 CFR ~~280.107~~ 280.111 entitled "Record Keeping" ~~are hereby~~ is incorporated by ~~reference including any~~ reference, excluding subsequent amendments and editions. ~~Locations where this material is available are specified in Rule .0102 of this Subchapter.~~ This document may be accessed at www.ecfr.gov/cgi-bin/ECFR?page=browse at no charge.

(b) In addition to the requirements incorporated in Paragraph (a) of this Rule, ~~the following are required as evidence of financial responsibility:~~ an owner or operator using an Insurance Pool as a financial assurance mechanism in accordance with Rule .0308 of this Subchapter, shall maintain a copy of the signed insurance certificate as specified in Rule .0308(c) of this Subchapter.

~~(1) An owner or operator using an "Insurance Pool" must maintain a copy of the signed insurance certificate as specified in Rule .0308(c) of this Subchapter.~~

~~(2) Each owner or operator must maintain copies of cancelled checks for payment of annual tank operating fees for the preceding three years or any alternate evidence of payment of the annual operating fees supplied by the Department.~~

Authority G.S. 143-215.94H; 150B-21.6.

SECTION .0500 - CHANGES IN STATUS

15A NCAC 02O .0501 DRAWING ON FINANCIAL ASSURANCE MECHANISMS

~~The provisions for "Drawing on Financial Assurance Mechanisms" contained in 40 CFR 280.108 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0502 RELEASE FROM THE REQUIREMENTS

~~The provisions for "Release From the Requirements" contained in 40 CFR 280.109 are hereby incorporated by reference including any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of this Subchapter.~~

Authority G.S. 143-215.94H; 150B-21.6.

15A NCAC 02O .0503 INCAPACITY OF OWNER OR OPERATOR OR PROVIDER OF ASSURANCE

(a) ~~The provisions for "Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance" contained in~~ 40 CFR ~~280.110,~~ 280.114 entitled "Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance, except for Subsection 280.110(d), ~~are hereby~~ is incorporated by ~~reference including any~~ reference, excluding subsequent amendments and editions. ~~Locations where this material is available are specified in Rule .0102 of this Subchapter.~~ This

document may be accessed at www.ecfr.gov/cgi-bin/ECFR?page=browse at no charge.

(b) Within 30 days after receipt of notification that the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund has become incapable of paying for assured corrective action or third-party compensation costs, the owner or operator ~~must~~ shall obtain financial assurance for the full amounts specified in ~~Rule .0204, Paragraphs (a) and (c), of this Subchapter.~~ 40 CFR 280.93.

~~(c) Within 30 days after receipt of notification that the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund has become incapable of paying for additional cleanup actions to be undertaken by the Department, any owner or operator or guarantor who self insures or guarantees based on Rule .0302, Paragraph (b), of this Subchapter must obtain financial assurance for at least twice the amount specified in Rule .0204, Paragraph (d), of this Subchapter assured in accordance with Rule .0302, Paragraph (b), of this Subchapter.~~

Authority G.S. 143-215.94H; 143-215.94T; 150B-21.6.

15A NCAC 02O .0504 REPLENISHMENT

(a) ~~The provisions for "Replenishment of Guarantees, Letters of Credit, or Surety Bonds" contained in~~ 40 CFR ~~280.111 are hereby~~ 280.115 entitled "Replenishment of Guarantees, Letters of Credit, or Surety Bonds" is incorporated by ~~reference including any~~ reference, excluding subsequent amendments and editions. ~~Locations where this material is available are specified in Rule .0102 of this Subchapter.~~ This document may be accessed at www.ecfr.gov/cgi-bin/ECFR?page=browse at no charge.

(b) If ~~at any time after~~ a standby trust (40 CFR 280.103) is funded upon the instruction of the Department with funds drawn from a ~~guarantee,~~ guarantee (40 CFR 280.96), letter of ~~credit,~~ credit (40 CFR 280.99), or surety ~~bond,~~ bond (40 CFR 280.98), and the amount in the standby trust is reduced to less than the amount for which the owner or operator is responsible per occurrence for third party claims, the owner or operator shall within 60 days from which the funds were drawn:

(1) ~~Replenish~~ replenish the value of financial assurance to equal the full amount of coverage ~~required, or~~ required pursuant to Rule .0204 of this Subchapter; or

(2) ~~Acquire~~ acquire another financial assurance mechanism for ~~the full amount of coverage provided by the Standby Trust.~~ the amount by which funds in the standby trust fund have been reduced.

Authority G.S. 143-215.94H; 143-215.94T; 150B-21.6.